

AG Contract No. KR95 2682TRN
ADOT ECS File: JPA 95-213
Project: G1050 53C
Section: Van Buren @ 104th Ave.
ESP Improvements

INTERGOVERNMENTAL AGREEMENT

BETWEEN

THE STATE OF ARIZONA

AND

THE CITY OF TOLLESON

THIS AGREEMENT is entered into 15 FEBRUARY 96, 1995, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF TOLLESON, acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 41-1513 and 28-1895 et seq to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The City has requested Economic Strength Project (ESP) funds in the amount of \$42,845.00; the Arizona Department of Commerce and the Economic Development Commission have recommended the approval of such funds for the City, and the Transportation Board has approved the funding, for the construction of street improvements to Van Buren @ 104th Avenue to provide improved access and aid in the retention and development of local business, hereinafter referred to as the Project.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. <u>20500</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>02/15/96</u>
<u>Gene Lee Hull</u>
Secretary of State
By <u>Vicky Greenwald</u>

II. SCOPE

1. The City will:

a. Insure the additional commitment of 50% of the total estimated Project cost, or \$42,845.00, whichever is more, from the City or other sources (not including ESP funds) to the Project and related improvements. Upon completion, accept the Project on behalf of the City and provide maintenance.

b. Invoice the State for ESP funds (Arizona Department of Commerce, ATTN: Deputy Director, 3800 N. Central Avenue, Suite 1500, Phoenix, AZ 85012), in the amount of \$42,845.00.

c. Provide the State a copy of the executed Project contract(s), and draw down and expend the State ESP funds no later than six (6) months after the effective date of this agreement. Provide the State written reports of all ESP fund expenditures, supported by invoices, receipts or other suitable documentation, and a final accounting report no later than thirty (30) days after ESP funds are fully expended. Reimburse the State any funds received under this agreement which are expended and subsequently disallowed by the State.

d. Provide the State (Arizona Department of Commerce, ATTN: Strategic Finance Division Director, 3800 N. Central Avenue, Suite 1500, Phoenix, AZ 85012) with quarterly Project status reports, and one year after completion of the Project, a written Economic Impact Report outlining the impact of the Project, to include jobs created, jobs retained and related data.

2. The State will:

a. Within thirty (30) days after receipt and approval of the ESP contract(s) and invoice, advance the City ESP funds in the amount of \$42,845.00.

III. MISCELLANEOUS PROVISIONS

1. The only interest of the Department of Transportation in the Project is to convey economic strength pass through funds for the use and benefit of the City by reason of state law under which funds for the Project are authorized to be expended.

2. The City agrees to indemnify and save harmless the State, or any of its departments, agencies, officers or employees, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the performance or non-performance by the City of any of the provisions of this agreement.

3. The total amount of ESP funds expended under this agreement shall not exceed 50% of the total Project cost. Should the Project not be completed, be partially completed, or be completed at a lower cost than the advanced amount, or for any other reason should any of these ESP funds not be expended, a proportionate amount of the funds provided under this agreement shall be reimbursed to the State.

4. This agreement shall remain in force and effect until completion of said Project, reimbursement and subsequent reports; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

5. This agreement shall become effective upon filing with the Secretary of State.

6. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

7. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

8. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth in Arizona Revised Statutes Section 12-1518.

9. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Room 222E Mail Drop 616E
Phoenix, AZ 85007

City of Tolleson
City Manager
9555 West Van Buren
Tolleson, AZ 85353

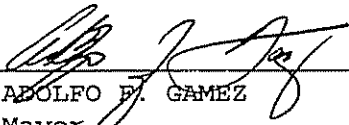
10. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.


CITY OF TOLLESON

STATE OF ARIZONA

Department of Transportation

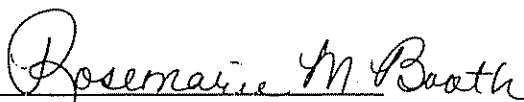
By 

ADOLFO B. GAMEZ
Mayor

By 

JAY KLAGGE, Director
Transportation Planning

ATTEST:

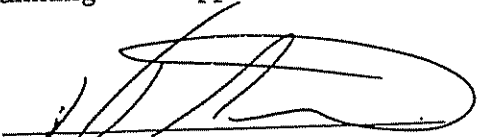
By 

ROSEMARIE MARTINEZ BOOTH
City Clerk

RESOLUTION

BE IT RESOLVED on this 29th day of November 1995, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the City of Tolleson for the purpose of defining responsibilities to convey Economic Strength grant funds to the City.

Therefore, authorization is hereby granted to draft said agreements which, upon completion, shall be submitted to the Director, Transportation Planning for approval and execution.


for LARRY S. BONINE
Director

CITY OF TOLLESON

RESOLUTION NO. 751

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF TOLLESON, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE MAYOR AND CITY MANAGER TO SIGN THE AGREEMENT BETWEEN THE ARIZONA DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION AND CITY OF TOLLESON, ARIZONA FOR ECONOMIC STRENGTH PROJECT FUNDS FOR 104TH AVENUE AND VAN BUREN, TOLLESON.

WHEREAS, the City of Tolleson desires to enter into an agreement with the Arizona Department of Transportation, Highways Division for Economic Strength Project funds for improvements at 104th Avenue and Van Buren, Tolleson; and

WHEREAS, the Arizona Department of Transportation, Highways Division is authorized to enter into such agreement pursuant to ARS 11-951 through 11-954; and

WHEREAS, the City of Tolleson is authorized to enter into such agreement pursuant to ARS 11-952.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Manager are hereby authorized to execute and deliver the Agreement, in substantially the form on file with the Tolleson City Clerk, with the Arizona Department of Transportation, Highways Division.

PASSED AND ADOPTED this 27th day of December, 1995, by the Mayor and Council of the City of Tolleson, Arizona.


ADOLFO F. GAMEZ, MAYOR

APPROVAL OF THE CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF TOLLESON and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 27th day of December, 1995.

Scott W. Riley
City Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

GRANT WOODS
ATTORNEY GENERAL

MAIN PHONE : 542-5025
TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. KR95-2682-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 9th day of February, 1996.

GRANT WOODS
Attorney General

A handwritten signature in cursive script, reading "James R. Redpath", is written over a horizontal line.

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:lsr
9042G